

PROB 12B  
(7/93)

## United States District Court

for

District of New Jersey

### Request for Modifying the Conditions or Term of Supervision with Consent of the Offender

*(Probation Form 49, Waiver of Hearing is Attached)*

Name of Offender: FOSTER, Mitchell

Cr.: 09-00165-001

PACTS Number: 34505

Name of Sentencing Judicial Officer: Honorable J. Daniel Breen, U.S. District Judge - Western District of Tennessee

Date of Original Sentence: 02/18/04

Original Offense: Count One: Conspiracy to Unlawfully Possess With Intent to Distribute in Excess of 500 Grams of Cocaine; Count Three: Conspiracy to Unlawfully Import in Excess of 500 Grams of Cocaine

Original Sentence: 30 months imprisonment; four years supervised release; \$200 special assessment. Special conditions: 1) drug treatment/urinalysis; 2) obtain/maintain full-time employment; and 3) financial disclosure and no new debt.

Type of Supervision: Supervised Release

Date Supervision Commenced: 06/29/06

### PETITIONING THE COURT

To modify the conditions of supervision as follows. The addition of the following special conditions:

The defendant shall reside for a period of two (2) months in a community corrections center, halfway house or similar residential facility and shall observe all the rules of that facility. The defendant shall be eligible for weekend privileges only if/when employment and/or schooling is secured. The defendant shall pay subsistence as required by the program.

The defendant shall participate in an approved program for domestic violence.

The defendant shall participate in a mental health program for evaluation and/or treatment as directed by the U.S. Probation Office. The defendant shall remain in treatment until satisfactorily discharged and with the approval of the U.S. Probation Office.

### CAUSE

On January 1, 2009, Foster was arrested by the East Orange, New Jersey Police Department for his role in a domestic dispute with L.R., his ex-girlfriend. Specifically, during a verbal argument, the offender threw the contents of a drink into L.R.'s face. The case was dismissed within East Orange Municipal Court. Further, the offender failed to respond truthfully to inquiries of the Probation Office and failed to report this arrest within the allotted time period.

Respectfully submitted,

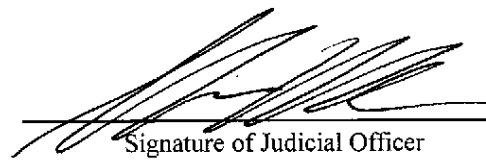
By: Joseph Empirio  
U.S. Probation Officer



Date: 03/19/09

THE COURT ORDERS:

- The Modification of Conditions as Noted Above  
 No Action  
 Other



Signature of Judicial Officer



Date



PROB 49  
(3/89)

UNITED STATES DISTRICT COURT  
FOR THE  
DISTRICT OF NEW JERSEY

**Waiver of Hearing to Modify Conditions  
of Probation/Supervised Release or Extend Term of Supervision**

I have been advised and understand that I am entitled by law to a hearing and assistance of counsel before any unfavorable change may be made in my Conditions of Probation and Supervised Release or my period of supervision being extended. By 'assistance of counsel,' I understand that I have the right to be represented at the hearing by counsel of my own choosing if I am able to retain counsel. I also understand that I have the right to request the court to appoint counsel to represent me at such a hearing at no cost to myself if I am not able to retain counsel of my own choosing.

I hereby voluntarily waive my statutory right to a hearing and to assistance of counsel. I also agree to the following modification of my Conditions of Probation and Supervised Release or to the proposed extension of my term of supervision:

To modify the conditions of supervision as follows. The addition of the following special condition(s):

The defendant shall participate in an approved program for domestic violence.

The defendant shall participate in a mental health program for evaluation and/or treatment as directed by the U.S. Probation Office. The defendant shall remain in treatment until satisfactorily discharged and with the approval of the U.S. Probation Office.

The defendant shall reside for a period of two (2) months in a community corrections center, halfway house or similar residential facility and shall observe all the rules of that facility. The defendant shall be eligible for weekend privileges only if/when employment and/or vocational training/schooling is obtained. The defendant shall pay subsistence as required by the program.

Witness: Joseph Empirio  
U.S. Probation Officer  
Joseph Empirio

Signed: Mitchell Foster  
Supervised Releasee  
Mitchell Foster

March 10, 2009  
DATE

**UNITED STATES DISTRICT COURT  
PROBATION OFFICE  
DISTRICT OF NEW JERSEY**

**CHRISTOPHER MALONEY**  
CHIEF PROBATION OFFICER

**WILFREDO TORRES**  
SENIOR DEPUTY CHIEF PROBATION OFFICER

DEPUTY CHIEF PROBATION OFFICER  
**THOMAS C. MILLER**

March 19, 2009

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Honorable Stanley R. Chesler, U.S. District Judge  
Martin Luther King Jr. Federal Building and Courthouse  
P.O. Box 0999  
Newark, New Jersey 07102

**RE: FOSTER, Mitchell**  
**Dkt. No.: 09-00165-001**  
**Notice of Non-compliance & Request**  
**For Modification of Supervised Release**  
**Conditions**

Dear Judge Chesler:

On February 18, 2004, Mitchell Foster was sentenced in the Western District of Tennessee - Memphis Division by the Honorable J. Daniel Breen, U.S. District Judge, to 30 months imprisonment, followed by a four-year term of supervised release for the offense of Count One, Conspiracy to Unlawfully Possess With Intent to Distribute in Excess of 500 Grams of Cocaine; and Count Three, Conspiracy to Unlawfully Import in Excess of 500 Grams of Cocaine. The offender was also ordered to pay a \$200 special assessment and abide by the following special conditions: 1) drug treatment/urinalysis; 2) obtain/maintain full-time employment; and 3) financial disclosure and no new debt. Foster has been supervised by this office since his release from custody on June 29, 2006. On March 10, 2009, Your Honor signed the Probation Form 22 executing the transfer of jurisdiction to the District of New Jersey.

On January 1, 2009, Foster was arrested by the East Orange, New Jersey Police Department for his role in a domestic dispute with L.R., his ex-girlfriend. Specifically, during a verbal argument, the offender threw the contents of a drink into L.R.'s face. On February 10, 2009, the case was dismissed within East Orange Municipal Court. Further, the offender failed to respond truthfully to inquiries of the Probation Office and failed to report this arrest within the allotted time period.

Due to the non-compliance detailed above, Our Office is recommending modifications to the conditions of supervised release. Specifically, we are requesting that the Court approve a sanction of two (2) months community confinement (Toler House) in Newark, New Jersey. Additionally, as a risk-control measure, we recommend the implementation of the following special conditions: 1) mental health evaluation/treatment; and 2) domestic violence counseling. During an office visit on March 10, 2009, the offender acknowledged the violations cited above and signed a Waiver of Hearing (Form 49) to modify the conditions of his supervised release.

Unless Your Honor considers otherwise, we ask that you review the attached Form 49, Waiver of Hearing to Modify Conditions of Probation, and sign the attached Probation Form 12B authorizing the modifications. We will make ourselves available should the Court wish to discuss this matter.

Respectfully submitted,

CHRISTOPHER MALONEY, Chief  
U.S. Probation Officer

*Joseph Empirio*  
By: Joseph Empirio  
U.S. Probation Officer

*jae*  
Attachment(s)